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Executive Order on short-selling

The following shall be laid down pursuant to sections 39b and 93(4) of the Act on Securities Trading etc., cf. Consolidated Act no. 848 of 19 August 2008 as amended by Act no. 1003 of 10 October 2008:

1.-(1) Agreements which lead to a short position or an increase of an existing short position may not be entered into regarding shares which are admitted for trading on a regulated market and issued by banks licensed under section 7 of the Financial Business Act.

(2) A position shall be deemed short according to subsection (1), if the person entering into the agreement

- 1) does not own at least the number of shares, said person shall deliver, or
- 2) has not entered into agreements, leading to said person becoming the owner of at least the number of shares said person shall deliver at the time of delivery.

(3) Ownership according to subsection (2) shall not cover loans of shares.

2.-(1) Agreements shall not be entered into regarding other financial instruments than shares, by which capital gain can be obtained, if share prices drop on shares covered by section 1(1).

(2) The provisions of subsection (1) shall not apply for entering into agreements to hedge risk on shares covered by section 1(1), including hedging carried out on the basis of a stock index, if the hedging is in reasonable proportion to the risk.

3.-(1) The provisions in section 1(1), and section 2 shall not apply to sale of shares and other financial instruments by market makers, when acting in their capacity as market makers.

(2) A market maker shall mean a securities dealer who is willing to trade on a continuous basis in the financial markets on his own account by buying and selling securities from his own holding at prices defined by him.

(3) The provision in section 1(1) and section 2 shall not apply to trading in own shares in buy-back programmes or to financial instruments as part of the stabilisation of the price of a security, provided such trading is carried out in accordance with Commission Regulation (EC) no. 2273 of 22 December 2003 implementing Directive 2003/6/EC of the European Parliament and of the Council regarding buy-back programmes and the stabilisation of financial instruments.

4.-(1) Any person violating section 1(1), and section 2 shall be liable to a fine.

(2) Companies etc. (legal persons) may incur criminal liability under the rules of Part 5 of the Criminal Code.

5. This Executive Order shall enter into force on 13 October 2008.

6.-(1) This Executive Order shall apply to Greenland and the Faeroe Islands.

(2) This Executive Order shall enter into force on the Faeroe Islands on the day after publication in the official Law Gazette of the Faeroe Islands.

The Danish FSA, 10 October 2008

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While this translation was carried out by a professional translation agency, the text is to be regarded as an unofficial translation based on the latest official Executive Order no. 1004 of 10 October 2008. Only the Danish document has legal validity.

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